

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases.

Judith E. Levy
United States District Judge

_____/

This Order Relates To:

ALL CASES

_____/

ORDER STRIKING LETTER [2332]

On January 24, 2023, Defendants Veolia North America, Inc., Veolia North America, LLC, and Veolia Water North America Operating Services, LLC (collectively, “Veolia”) filed a three-page letter on the docket. (Case No. 16-10444, ECF No.75945.) The letter requests “that the Court strike the affidavit of Kelly Cutler,” (*id.*) which is attached as an exhibit to Plaintiffs’ reply brief in support of their motion to compel discovery. (See ECF No. 2325-1.) Veolia’s letter cites case law in support of the relief it seeks and is, in essence, a motion. (*Id.* at PageID.75946.) Veolia’s letter also includes a request for leave to file a sur-reply. (*Id.*)

The permissible form for motions and briefs in this district is governed by Eastern District of Michigan Local Rules 5.1 and 7.1 and the

Court's Practice Guidelines, all of which can be found on the Eastern District of Michigan website. None of these rules contemplate a motion in the format of a letter from counsel to the Court. As set forth in the Comment to Local Rule 5.1, "[a]ttempts to circumvent the LR in any way may be considered an abusive practice which may result in papers being stricken as well as sanctions being imposed under LR 11.1."

There have been a limited number of instances in this litigation where the Court has instructed the parties to submit letters summarizing their legal positions. However, the Court has permitted these letters only in specific situations. The Court has only permitted letters to be filed on the docket after the Court grants the parties leave to file. *See* Fifth Amended Case Management Order, ECF No. 1255 (stating, with regard to the discovery dispute protocol, "[i]f the topic is accepted for the biweekly conference call, then, pursuant to the timeline specified in the agenda, parties to the dispute must submit a one-page, single-spaced summary of the issue via email to the Court's assigned law clerk. *Do not file these on the docket.*" (*Id.* at PageID.39352) (emphasis added)); *See* Order Regarding Status Conference and Discovery Conference Protocol, ECF No. 2146 (stating, in part, "[t]he notice and agenda will include

whether the Court will accept written submissions from the parties in advance of the hearing. *The parties should not submit or file items on the docket unless otherwise ordered.*” (*Id.* at PageID.72508) (emphasis added)).

If Veolia seeks to file a sur-reply, it should do so in conformance with the motion practice rules set forth in the Local Rules and the Court’s practice guidelines. Veolia must set forth the reasons why the Court should exercise its discretion to permit a sur-reply. *See Key v. Shelby County*, 551 F. App’x 262, 264 (6th Cir. 2014). ECF No. 2332 will be stricken from the docket as nonconforming.

IT IS SO ORDERED.

Dated: January 30, 2023
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 30, 2023.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager